

mwo

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

COURT 3 2011

CLERK, U.S. DISTRICT COURT

By [Signature]
Deputy

10:42

UNITED STATES OF AMERICA, *et al.*,
ex rel. JEFFREY SEARS

Plaintiffs,

v.

ST. JUDE MEDICAL INC., *et al.*,

Defendants.

Civil Action No. 3-10-cv-1237-M

FILED UNDER SEAL

SEALED

THE UNITED STATES OF AMERICA'S NOTICE OF DECLINATION

1. Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its declination to intervene in this action.
2. Although the United States is declining to intervene, we respectfully refer the Court to the provisions of the FCA, 31 U.S.C. § 3730(b)(1), which permit a relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the Court and the Attorney General give written consent to the dismissal and their reasons for consenting." The United States requests that, should either relator or defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval of such a request.

3. The United States further requests that pursuant to 31 U.S.C. § 3730(c)(3), should this case continue, that relator and defendants serve all pleadings filed in this action upon the United States, and that all orders issued by the Court also be sent to the undersigned government's counsel.

4. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause shown, at a later date pursuant to 31 U.S.C. § 3730(c)(3).


5. The United States finally requests that only the complaint (or amended complaint), this notice, and the Court's accompanying Order be unsealed and served upon defendant. The United States asks that all other materials in this matter (including, but not limited to, any hearing transcripts, applications filed by the United States for an extension of time in which to intervene or for any other reason) remain under seal and not be made public or served on defendants at any time because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

6. A proposed Order accompanies this notice.

Respectfully submitted,

TONY WEST
ASSISTANT ATTORNEY GENERAL

SARAH R. SALDAÑA
UNITED STATES ATTORNEY



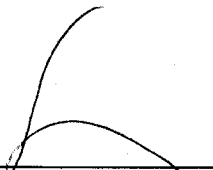
Sean McKenna
Assistant United States Attorney
Texas Bar No. 24007652
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214.659.8600
Facsimile: 214.767.2916
Email: sean.mckenna@usdoj.gov

Joyce R. Branda
Daniel R. Anderson
Adam J. Schwartz
Attorneys, Civil Division
Commercial Litigation Branch
Washington, DC 20044

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I hereby certify that on Oct 3, 2011, true and correct copies of the foregoing pleading and proposed Order were served via electronic mail on counsel for relator.



Sean R. McKenna
Assistant United States Attorney